

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOLLY ROGER OFFSHORE FUND LTD and	:	x
JOLLY ROGER FUND LP, Individually, and On	:	
Behalf of All Others Similarly Situated,	:	Electronically Filed
	:	
Plaintiff,	:	Civil Action No.: 1:07-cv-03923-RWS
	:	(ECF Case)
v.	:	
	:	Hon. Robert W. Sweet
BKF CAPITAL GROUP, INC.,	:	
GLENN A. AIGEN and JOHN A. LEVIN,	:	
	:	
Defendants.	:	

**NOTICE OF NON-OPPOSITION TO THE MOTION OF THE JOLLY ROGER
OFFSHORE FUND LTD AND JOLLY ROGER FUND LP FOR APPOINTMENT AS LEAD
PLAINTIFF AND APPROVAL OF SELECTION OF LEAD COUNSEL**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on July 17, 2007, the Jolly Roger Offshore Fund LTD and Jolly Roger Fund LP (the “Jolly Roger Funds” or “Movant”) filed a motion for appointment as lead plaintiff and for approval of their selection of lead counsel pursuant to §21D(a)(3)(B) of the Securities Exchange Act of 1934 (“Exchange Act”), as amended by the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. §78u-4(a)(3)(B). In the memorandum in support of their motion, the Jolly Roger Funds set forth why they should be appointed lead plaintiff, namely that they have suffered the largest financial interest in the relief sought by the class and satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure, as required by the Exchange Act.

See 15 U.S.C. §78u-4(a)(3)(B).

According to the provisions of the PSLRA, any class member may move for appointment as lead plaintiff within 60 days after the notice of the pendency of the action is published. *See* 15 U.S.C. §78u-4(a)(3)(A)(i)(II). Here, plaintiffs had to move by July 17, 2007 for their motions to be timely filed pursuant to the PSLRA. To the Jolly Roger Funds’ knowledge, they are the only movant that filed a lead plaintiff motion on this date.

Because the Jolly Roger Funds’ motion for appointment as lead plaintiff and approval of lead counsel is unopposed and because the Jolly Roger Funds have the largest financial interest in the relief sought by the class and meet the requirements of the Exchange Act, the Jolly Roger Funds should be appointed lead plaintiff and their selection of Labaton Sucharow & Rudoff LLP as lead counsel should be approved. *See Greebel v. FTP Software*, 939 F. Supp. 57, 64 (D. Mass. 1996), *aff’d*, 194 F.3d 185 (1st Cir. 1999); *Holley v. Kitty Hawk, Inc.*, 200 F.R.D. 275, 279 (N.D. Tex. 2001).

DATED: August 3, 2007

Respectfully submitted,

**LABATON SUCHAROW
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